

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6141**

**BILL NUMBER:** HB 1057

**NOTE PREPARED:** Nov 19, 2007

**BILL AMENDED:**

**SUBJECT:** Smoking Ban in Certain Public Places.

**FIRST AUTHOR:** Rep. Brown C

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** *Smoking Prohibition:* The bill prohibits smoking in: (1) public places; (2) enclosed areas of a place of employment; and (3) certain state vehicles, and it provides exemptions.

*Indiana Alcohol and Tobacco Commission:* It requires the Alcohol and Tobacco Commission to enforce the prohibition.

*Infractions:* The bill makes it a Class B infraction to violate the smoking prohibition and a Class A infraction if the person has three unrelated prior offenses.

*Repeals:* It repeals the current Clean Indoor Air Law that prohibits smoking in public buildings.

(The introduced version of this bill was prepared by the Health Finance Commission.)

**Effective Date:** July 1, 2008.

**Explanation of State Expenditures:** *Summary-* Revenues for the state General Fund could increase through infraction judgements for two Class B infractions established under the bill. However, the bill will increase costs for the Indiana Alcohol and Tobacco Commission (IATC) to enforce the smoking ban. The increased costs will vary depending on how IATC implements its enforcement responsibility.

*Indiana Alcohol and Tobacco Commission:* Under current law, the Clean Indoor Air Law is under the sections of the Indiana Code concerning the State Department of Health (ISDH). Enforcement of the statute is not assigned meaning that it is enforced by law enforcement officers. Under the bill, the IATC would have

enforcement responsibility. The bill prohibits smoking in most public places, but provides certain exceptions. The IATC currently has authority for enforcing the sale of cigarette provisions in the public places that are mostly exempt from the smoking ban in the bill. As a result, the IATC will need to increase staffing to address this new responsibility. However, there are no data available to estimate the number of public places where enforcement will occur. The IATC could enforce the new smoking ban with its own enforcement agents or delegate enforcement to other local agencies. (Under IC 34-28-5, all law enforcement officers have authority to enforce infractions.) Also, the IATC could actively enforce the smoking ban or choose to only investigate complaints received. These management decisions will determine the additional staffing requirements.

*Background on the IATC-* The appropriation for the IATC in FY 2008 is \$11.4 M and in FY 2009 is \$11.6 M. The IATC is funded with dedicated funds from tobacco and alcohol excise taxes. As of November 15, 2007, there were 97 employees with total salaries of \$4.4 M assigned to the Excise Police Enforcement Section (EPES) of the IATC. The average annual salary of employees of the EPES is \$45,140, and salaries range from \$26,500 to \$69,700.

*Background on Smoking Ban Enforcement in Other States-* A random sample of smoking bans in several other states indicates that generally the state department of health is responsible for enforcement of smoking bans. In most cases, the enforcement responsibility is delegated to the local health departments and/or local law enforcement. Some states provide for investigation of complaints to enforce smoking ban laws. The state policies reviewed include Arizona, Florida, Illinois, Minnesota, Nevada, New York, Ohio, Oregon, and Utah.

**Explanation of State Revenues:** *Infractions:* There are no data available to indicate how many offenders may be found guilty of prohibited smoking, a Class B infraction, or how many owners, managers, or operators of public places or places of employment may fail to comply with the provisions of the act, a Class B infraction. Both of these offenses may be enhanced to a Class A infraction if the offender has three prior, unrelated convictions. If additional court cases occur and infraction judgments and court fees are collected, revenue to the state General Fund may increase. The maximum judgment for a Class B infraction is \$1,000, and the maximum judgment for a Class A infraction is \$10,000. Judgments are deposited in the state General Fund.

If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$17), the public defense administration fee (\$3), the court administration fee (\$3), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

#### **Explanation of Local Expenditures:**

**Explanation of Local Revenues:** *Infractions:* If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

**State Agencies Affected:**

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:**

**Fiscal Analyst:** Karen Firestone, 317-234-2106.